

Australian statement

Exchange of views on topic 2: international law relating to the use of force in international affairs

Chair,

At the outset, there is consensus that international law applies to activities in and related to outer space. This includes the UN Charter, the space treaties, IHL and customary international law.

On behalf of my delegation, I would like to share some of Australia's positions on the law on the use of force to help contribute to these fruitful discussions.

Article III of the Outer Space Treaty confirms that the provisions of the UN Charter are applicable to States' activities in outer space. This includes provisions of the UN Charter relating to the use of force, namely Articles 2(4) and Article 51.

Chair,

Australia considers that the thresholds and limitations governing the exercise of self-defence under Article 51 of the United Nations Charter apply in respect of outer space activities that constitute an armed attack and in respect of acts of self-defence that are carried out by outer space means.

In our view, if a space activity results in, or presents an imminent threat of damage equivalent to a traditional armed attack, then the inherent right to self-defence pursuant to Article 51 of the UN Charter is engaged.

Any use of force in self-defence must be necessary for the State to defend itself against the actual or imminent armed attack, and be a proportionate response in scope, scale and duration.

Any reliance on Article 51 must be reported directly to the UN Security Council.

Australia encourages other States to share their views on the application of the law on the use of force to activities in outer space. We particularly welcome views on whether non-kinetic, reversible counterspace weapons including jamming and lasers can constitute a use of force? When space objects are temporarily or partially disrupted, interfered with or degraded, should this be considered an armed attack? If so, what is the threshold?

Chair

We reaffirm the important work of this OEWG, including the consideration of current and future threats, to help reduce the risk of miscalculation.

We trust that these perspectives are of assistance.

Thank you Chair.